

Message Text

SECRET

PAGE 01 GENEVA 11268 01 OF 02 211300Z
ACTION SS-25

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S E C R E T SECTION 01 OF 02 GENEVA 11268

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E.O. 11652: XGDS-3
TAGS: PARM US UK UR
SUBJECT: CTB NEGOTIATIONS: DEVELOPMENT OF TEXT OF ARTICLE
I AND SOVIET PRESENTATION OF DRAFT LANGUAGE OF FORMAL
ARTICLES

CTB MESSAGE NO. 267

1. SUMMARY: POLITICAL WORKING GROUP MET ON JULY 20, AS
DECIDED EARLIER BY THE HEADS OF THE THREE DELEGATIONS, IN
ORDER TO WORK ON TEXT OF ARTICLE I OF THE MULTILATERAL
TREATY, PERTAINING TO THE BASIC PROHIBITION. US DEL
MADE CLEAR THAT THE US RESERVED THE RIGHT TO RETURN TO
THE QUESTION OF PERMITTED EXPERIMENTS. A COMPOSITE TEXT
FOR ARTICLE I BASED ON SIMILAR ARTICLE IN THE LIMITED
TEST BAN TREATY (LTBT) WAS WORKED OUT BY THE THREE DELE-
GATIONS (TEXT BELOW). THE SOVIET DELEGATION DISTRIBUTED
ILLUSTRATIVE TEXT FOR THE FORMAL ARTICLES OF THE MULTI-
SECRET

SECRET

PAGE 02 GENEVA 11268 01 OF 02 211300Z

LATERAL TREATY (CTB MESSAGE 268). END SUMMARY.

2. FOLLOWING AN EXTENSIVE US/UK DISCUSSION ON JULY 19
OF LEGAL POINTS AND PRECEDENTS RELATING TO POSSIBLE
LANGUAGE FOR ARTICLE I, THE POLITICAL WORKING GROUP
MEETING JULY 20 WAS DEVOTED PRIMARILY TO DEVELOPMENT OF
A DRAFT TEXT FOR ARTICLE I. NEIDLE (US) SAID THAT, IN

LIGHT OF THE VANCE-GROMYKO DISCUSSION WHICH CONFIRMED THAT THE NEGOTIATING PARTIES INTEND TO DEVELOP A COMPREHENSIVE TREATY, AND THE WARNKE EXCHANGE WITH PETROSYANTS LAST WEEK, WE WERE NOW PREPARED TO WORK ON ARTICLE I. NEIDLE REPEATED WARNKE'S STATEMENT THAT, SINCE WE WERE ALL SEEKING A COMPREHENSIVE TREATY, THERE WERE NO BASIC POLICY PROBLEMS TO BE RESOLVED REGARDING ARTICLE I, BUT WE SHOULD CAREFULLY CONSIDER THE LANGUAGE. HE REAFFIRMED THAT THE US DELEGATION RESERVED ITS RIGHT TO RETURN TO THE QUESTION OF PERMITTED EXPERIMENTS WHEN WE HAVE INSTRUCTIONS ON HOW THE MATTER SHOULD BE HANDLED. TIMERBAEV (USSR) TOOK NOTE OF THE US RESERVATION. NEIDLE AND BIRCH (UK) SAID THEY WERE PREPARED TO BEGIN THE DISCUSSION BY ANALYZING THE SOVIET ILLUSTRATIVE TEXT (CTB MESSAGE 126) WHICH, AS TIMERBAEV CONFIRMED, WAS BASED ON THE LANGUAGE OF ARTICLE I OF THE 1963 LIMITED TEST BAN TREATY (LTBT).

3. BIRCH SUGGESTED, WITH RESPECT TO PARAGRAPH 1 OF THE SOVIET TEXT, THAT USE OF THE PHRASE "NUCLEAR WEAPON TEST EXPLOSION" WOULD BETTER DESCRIBE WHAT IS PROHIBITED. HE NOTED THAT THIS PHRASE IS THE EXACT LANGUAGE CONTAINED IN THE OFFICIAL ENGLISH LANGUAGE TEXT OF THE LTBT. TIMERBAEV ACCEPTED THE CHANGE EXPLAINING THAT THE SOVIET INTERPRETER, TRANSLATING THE RUSSIAN PHRASE FOR THIS TERM INTO ENGLISH, PROBABLY FAILED TO CHECK THE OFFICIAL ENGLISH TEXT OF THE LTBT AND THEREFORE PRODUCED THE
SECRET

SECRET

PAGE 03 GENEVA 11268 01 OF 02 211300Z

VARIANT CONTAINED IN THE SOVIET DRAFT OF LAST FEBRUARY.

4. BIRCH NOTED SEVERAL OTHER VARIATIONS BETWEEN THE SOVIET ILLUSTRATIVE TEXT AND THE TEXT OF THE LTBT, AND ALL THREE DELEGATIONS AGREED THAT FEWER QUESTIONS WOULD BE RAISED BY OTHER PROSPECTIVE PARTIES IF THE LANGUAGE OF THIS ARTICLE REMAINS AS CLOSE AS POSSIBLE TO THE LTBT TEXT. IN THIS VEIN, NEIDLE AND BIRCH SUGGESTED CHANGING THE SOVIET PHRASE "IN ALL THE ENVIRONMENTS" TO "IN ANY ENVIRONMENT", AND THE PHRASE "AND UNDERGROUND" TO "OR UNDERGROUND". TIMERBAEV ACCEPTED THESE SUGGESTIONS. TO COVER ANY UNCERTAINTY REGARDING A POSSIBLE ZONE, JURIDICALLY SPEAKING, BETWEEN THE ATMOSPHERE AND OUTER SPACE, THE DELEGATIONS AGREED TO USE THE TBT PHRASE "BEYOND ITS LIMITS INCLUDING OUTER SPACE" TO DESCRIBE THE ENVIRONMENTS BEYOND THE ATMOSPHERE.

5. WITH REGARD TO PARAGRAPH 2, THE DELEGATIONS AGREED TO CHANGE THE LAST PHRASE OF THE SOVIET ILLUSTRATIVE TEXT TO THE WORD "ANYWHERE". SINCE THE PROHIBITION OF ARTICLE I APPLIES ONLY TO PLACES UNDER THE JURISDICTION OR CONTROL OF PARTIES, THIS PHRASE WOULD, UNLIKE THE

SOVIET ILLUSTRATIVE TEXT, MAKE IT CLEAR THAT PARTIES
ARE OBLIGATED NOT TO CAUSE OR PARTICIPATE IN NUCLEAR
WEAPON TEST EXPLOSIONS ON THE TERRITORY OF NON-PARTIES.

6. ON COMPLETION OF THIS REVIEW OF ARTICLE I, THE THREE
DELEGATIONS AGREED TO THE FOLLOWING DRAFT COMPOSITE TEXT
OF ARTICLE I. BEGIN TEXT:

1. EACH STATE PARTY TO THIS TREATY UNDERTAKES TO PRO-
HIBIT, TO PREVENT, AND NOT TO CARRY OUT ANY NUCLEAR
WEAPON TEST EXPLOSION AT ANY PLACE UNDER ITS JURISDICTION
OR CONTROL IN ANY ENVIRONMENT - IN THE ATMOSPHERE, BEYOND
ITS LIMITS INCLUDING OUTER SPACE, UNDER WATER, OR

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PAGE 01 GENEVA 11268 02 OF 02 211303Z
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 DODE-00 INRE-00
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S E C R E T SECTION 02 OF 02 GENEVA 11268
EXDIS

UNDERGROUND.

2. EACH PARTY UNDERTAKES TO REFRAIN FROM CAUSING,
ENCOURAGING, OR IN ANY WAY PARTICIPATING IN, THE CARRYING
OUT OF ANY NUCLEAR WEAPON TEST EXPLOSION ANYWHERE. END
TEXT.

7. TURNING TO THE QUESTION OF THE REFERENCE TO THE PNE
PROTOCOL, NEIDLE INQUIRED ABOUT THE POSSIBILITY OF PLACING
THE CROSS-REFERENCE TO THE PROTOCOL AT THE END OF ARTICLE
I. TIMERBAEV SAID THE SOVIETS WOULD PREFER TO PLACE IT
IN A SEPARATE ARTICLE. HE THEN CIRCULATED TO THE OTHER
DELEGATIONS THIS PROPOSED NEW ARTICLE, ALONG WITH THE
SOVIET ILLUSTRATIVE TEXT FOR THE FORMAL ARTICLES OF THE
MULTILATERAL TREATY (CTB MESSAGE 268). TIMERBAEV EXPLAIN-
ED THAT THE SOVIET PROPOSED CROSS REFERENCE TO PNES IN
ARTICLE III IS BASED IN PART ON ARTICLE III OF THE THRES-
HOLD TEST BAN TREATY. THE ARTICLE IV DISCLAIMER HAS BEEN
SUGGESTED BY THE SOVIET SIDE EARLIER AND WAS SIMILAR TO

CLAUSES IN OTHER ARMS CONTROL TREATIES. ARTICLE V IS VERY CLOSE TO THE UK-US PROPOSAL (ARTICLE III IN CTB MESSAGE 250) BUT OMITTS A REFERENCE TO AMENDMENTS OF THE PROTOCOL BECAUSE, IN THE SOVIET VIEW, THE PROTOCOL SHOULD REFER TO FUTURE AGREEMENTS GOVERNING NUCLEAR EXPLOSIONS FOR PEACE-
SECRET

SECRET

PAGE 02 GENEVA 11268 02 OF 02 211303Z

FUL PURPOSES. IN ARTICLE VI, THE SOVIETS WOULD PREFER DESIGNATING CERTAIN GOVERNMENTS AS DEPOSITARIES, RATHER THAN DESIGNATING THE UN SECRETARY-GENERAL. THE SOVIETS LISTED TWO POSSIBLE DURATIONS, THREE AND FIVE YEARS, IN BRACKETS IN ARTICLE VII "BECAUSE THIS ISSUE IS UNDER REVIEW BY SOME GOVERNMENTS". IN THE SECOND PARAGRAPH OF THAT ARTICLE, THE SOVIET DELEGATION PROPOSES THAT THE REVIEW CONFERENCE SHOULD CONSIDER THE QUESTION OF EXTENDING THE TREATY, AND THAT REFERENCE BE MADE TO CONTINUING TESTING BY OTHER STATES.

8. NEIDLE AND BIRCH WELCOMED THE SOVIET CONTRIBUTION, WHICH IN PART RESPONDED TO EARLIER US-UK PROPOSALS. THE GROUP AGREED TO TAKE UP THESE ARTICLES AT THE NEXT MEETING, AND TO CONSIDER THE DIFFERENCES BETWEEN THE US-UK PROPOSALS AND THOSE OF THE USSR. JOHNSON

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